



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Number: **202015022**
Release Date: 4/10/2020

Date:
January 15, 2020
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

UIL Number: 501.00-00, 501.06-00, 501.06-01

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(6) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Date:
July 10, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

L = State

M = Date

n dollars = Amount

q dollars = Amount

UIL:

501.00-00

501.06-00

501.06-01

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC Section 501(c)(6). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under Section 501(c)(6) of the Code? No, for the reasons stated below.

Facts

You incorporated in the state of L on M. You are organized as a business league, to promote the common needs and interests of food truck operators. You exist to represent the interests of your members operating food trucks in your state. Members include food trucks, trailers, dessert trucks, carts, and operations of a similar nature.

You assert that your time is spent on the following activities:

- % - Lobbying local and state governments on issues affecting food trucks to ensure the state of L is more accommodating to business owners involving food trucks. To this end you will work directly with elected public figures to increase understanding of what the typical food-truck business entails, the current difficulty in starting up and operating a food truck due to legal and regulatory hurdles, ways in which food trucks can benefit the local community and job market, and ways that the pertinent laws could be amended to create a more business-friendly atmosphere for food trucks in L.
- % - Significantly increasing the number of vending opportunities/locations for food trucks to operate. This includes, but not limited to, increasing the public visibility and understanding of how food trucks

can be beneficial to private companies and their workers. This will be accomplished, in part, by increasing the number of employers requesting food trucks to visit their locations. This also includes providing members a web-based scheduling service which will allow private locations to request food trucks and for members to accept these requests.

- % - Partnering with event planners to develop a more mutually-beneficial relationship in which food truck vendors are available to provide their food or other products. This can be accomplished through education of how food trucks operate and the quality of products they can deliver to their customers. Also, they can network with event planners who are unfamiliar with food trucks.
- % - Leveraging your members' collective buying power to identify and build better relationships with suppliers, to allow your members to buy goods and services directly from suppliers at a discounted rate due to the potential for a larger customer base accessible to the supplier. This includes working directly with suppliers such as mechanics, insurance providers, and food suppliers.
- % - Providing education and support for current food truck owners and operators. This can be accomplished online, in person, or via printed documents, depending on the situation. Food truck owners and operators can collectively work together to foster an environment where they can share business experiences that may be of use to fellow members.

According to your bylaws, any person who owns or operates a mobile food truck, pays the annual dues, and agrees to be bound by your formation document, bylaws, and by the rules and regulations adopted by the directors, is eligible to become a member. All interested potential members must submit an application which is reviewed by the board. The board may approve or reject the application with or without cause.

Your primary source of revenue is generated through web-based scheduling services you provide for members to facilitate requests for vending by customers. Members are charged between n dollars and q dollars per vending opportunity for use of your web-based scheduling system. These fees are used to cover administrative costs of managing the vending locations. Management includes, but is not limited to, maintaining a relationship with the client, listing and updating information used to communicate the vending opportunities, documenting the qualifications of your members to vend at these sites (proper permitting, insurance, etc.) and ongoing management of the attendance of food trucks at each location.

Your website includes links to all your members' websites and a link for the public to find where your members' trucks will be located. Your website also states that your members' trucks are available for events and private parties. Your website includes a link for the public to book your members' trucks for events.

Your member benefits include:

- Ability to participate in food truck lots, catering requests, and your sponsored festivals
- Lobbying state and local government to make L more food truck friendly
- Increased vending opportunities for members
- Ongoing training, education, and support
- Increased buying power
- Access to your law firm and consultants, and
- Many other miscellaneous benefits.

More than half of your revenue since your inception was received from your members for vending opportunities. You have an employee who spends about percent of their time providing scheduling services for your members. You provided a breakdown of your expenditures. Your biggest expenses, other than for salaries, are for computer/internet expenses and advertising/promotion.

Law

Section 501(c)(6) of the Code provides, in part, for the exemption from federal income tax of business leagues, which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treasury Regulation Section 1.501(c)(6)-1 provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 61-170, 1961-2 C.B. 112, ruled on an association composed of professional private duty nurses and practical nurses which operated a nurses' registry primarily to afford greater employment opportunities for its members. The association was not entitled to exemption as a business league described in Section 501(c)(6) of the Code because its primary purpose was the operation of a regular business of the kind ordinarily carried on for profit and it was engaged in rendering particular services for individual persons rather than promoting the general business conditions of the nursing profession.

Rev. Rul. 71-175, 1971-1 C.B. 153, ruled on a nonprofit organization whose principal activity was the operation of a telephone-answering service for member doctors. By providing a telephone-answering service, the organization relieved the individual members of securing this service commercially, resulting in a convenience or economy in the conduct of the medical practice of its individual members. Therefore, the organization was rendering particular services for individual persons as distinguished from the improvement of business conditions in the medical profession and public health area generally. Thus, the organization was not exempt under Section 501(c)(6) of the Code.

The American Automobile Association v. Commissioner of Internal Revenue, 19 T.C. 1146 (1953), held that an organization whose principal activities consist of performing particular services, and securing benefits, for its members, does not qualify for exemption under Section 501(c)(6) of the Code.

In Indiana Retail Hardware Ass'n., Inc. v. United States, 177 Ct. Cl. 288 (1966), the Court held that when conducting particular services for members is a substantial activity of an organization, the organization will be precluded from exemption under Section 501(c)(6) of the Code.

Application of law

To be exempt under Section 501(c)(6) of the Code, your activities must be directed to the improvement of business conditions of one or more lines of business, and not inure to the benefit any private shareholder or individual. You primarily operate to private scheduling services and business opportunities for your members

which serves as a convenience and economy to members in the operation of their individual businesses. This constitutes the performance of particular services to members as opposed to the improvement of business conditions as described in Treas. Reg. Section 1.501(c)(6)-1.

More than half of your revenue since your inception has come from your members for the scheduling services you provide. You are providing business opportunities to your membership in a manner similar to the organization denied exemption in Rev. Rul. 61-170. Providing scheduling services is considered to be the operation of a regular business of the kind ordinarily carried on for profit. By providing scheduling services for a fee you are rendering particular services for individual persons rather than promoting general business conditions. While you do conduct some activities that promote general business conditions, your primary activity is providing scheduling services.

Providing scheduling services relieves your individual members of securing and arranging vending opportunities themselves, resulting in a convenience to them. As noted in Rev. Rul. 71-175, rendering particular services for individual persons is distinguished from the improvement of business conditions of a particular line of business and by providing this service, the organization is engaged in a regular business of a kind ordinarily carried on for profit. Therefore, exemption under Section 501(c)(6) of the Code is precluded.

You are similar to the organizations described in Indiana Retail Hardware Ass'n. and American Automobile Association, which failed to qualify for exemption under Section 501(c)(6) of the Code because providing services for members is a substantial activity. Because your primary activity is providing scheduling services for your members, you are not exempt under Section 501(c)(6).

Conclusion

Based on the information provided, we conclude that you are not operated as a business league described in Section 501(c)(6) of the Code. You are primarily providing particular services to your members consisting of scheduling services. These services function as a convenience and economy to members and preclude exemption under Section 501(c)(6). Furthermore, the methods you use in conducting your scheduling services illustrate that you are engaged in a business normally carried on in a for profit manner. This is also contrary to exemption under Section 501(c)(6). Therefore, you do not qualify for exemption under Section 501(c)(6) of the Code.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position

- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
P.O. Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676). If you have questions, you can contact the person listed at the top of this letter.

Contacting the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or if you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements